(a)   a processor;

(b)   a port coupled to said processor; and

(c)   a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to:

(i)   transmit data to a receiver;

(ii)   receive, from the receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted in (i);

(iii)   select, based on the received suggestion, an action to alter the future transmitted data; and

(iv)   alter the future transmitted data.

Remarks

Claims 1-53 are pending in the application, and stand rejected. Favorable reconsideration is respectfully requested.

Claims 1-4, 6-7, 10-17. 19-20, 23-30, 33-39, 42-48 and 51-53 were rejected under 35 USC 102(e) as being anticipated by Goetz et al. (Goetz) (U.S. Patent No. 5,928,330).

Anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims. *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985). There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. § 102. *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991). In view of the foregoing authority, the Applicant respectfully submits that the cited reference fails to support the asserted rejection.

. The present invention as recited in independent claim 1 relates to a computer-readable medium storing instructions adapted to be executed on a processor to display, at a receiver, received data, and analyze, at the receiver, the quality of the received data. Further, the instructions, when executed by a processor, formulate, at the receiver, based

on the analysis, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver, and send, from the receiver, the formulated suggestion.

The present invention as recited in independent claim 14 relates to a method of transmitting data from a sender to a receiver across a network, and includes similar limitations to those recited in claim 1.

As recited in independent claim 27 as amended, the present invention relates to a method of transmitting data across a network. The method comprises transmitting data to a receiver, and receiving, from the receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted in the earlier transmitting step. The method further comprises selecting, based on the received suggestion, an action to alter the future transmitted data, and altering the transmitted data.

Independent claim 36 is an apparatus claim that includes, among other limitations, similar limitations to those recited in claim 1. Independent claim 46 as amended is an apparatus claim that includes, among other limitations, similar limitations to those recited in claim 27.

The Goetz reference does not anticipate the claimed invention for at least the reason that it does not disclose analyzing, at a receiver, the quality of received data, and formulating, at the receiver, based on the analysis, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver, as required by claims 1, 14 and 36. Nor does Goetz disclose, as required by claims 27 and 46: transmitting data to a receiver, and receiving, from the receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted in the earlier step; selecting, based on the received suggestion, an action to alter the future transmitted data; and altering the transmitted data.

Concerning claims 1, 14 and 36, a review of Goetz does not reveal, nor does the Office Action point out, any particular portion of Goetz as teaching the step of analyzing as required in each of the claims. On the other hand, the Office Action cites col. 11, lines 27-48 of Goetz as support for the contention that Goetz teaches formulating a suggestion according to the claimed invention. As concerns that part of the passage alleged by the Examiner to correspond to limitations in the rejected claims, the cited passage only

discloses a client application that sends a message to a server specifying a desired rate of transmission. The desired rate of transmission is tied to the communication rate of an attached communication device.

However, the Applicant respectfully disagrees with the Examiner's conclusions based on the cited passage. Because Goetz does not disclose any step of analyzing, as discussed above, the message from the client to the server cannot be based on an analysis of the quality of received data, as required by claims 1, 14 and 36. Therefore, neither the analyzing nor the formulating steps required by claims 1, 14 and 36 are met by Goetz.

In rejecting claims 27 and 46, the Office Action refers back to the arguments applied in rejecting claims 1, 14 and 36. However, nothing in the discussion of claims 1, 14 and 36 in the Office Action supports the asserted rejection of claim 27 and 46 as amended. In particular, for example, nothing in Goetz teaches receiving, from a receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted to the receiver in an earlier step, and altering the future transmitted data based on the received suggestion.

Accordingly, independent claims 1, 14, 27, 36 and 46, and thus the claims dependent thereon, are allowable over Goetz. Withdrawal of the rejection of claims 1-4, 6-7, 10-17. 19-20, 23-30, 33-39, 42-48 and 51-53 under 35 USC 102(e) as being anticipated by Goetz is therefore respectfully requested.

Claims 5 and 18 were rejected under 35 USC 103(a) as being unpatentable over Goetz in view of Pocock et al. (Pocock) (US 5,014,125). Claims 8-9, 21-22, 31-32, 40-41 and 49-50 were rejected under 35 USC 103(a) as being unpatentable over Goetz in view of Volk et al. (US 5,673,401).

To establish a prima facie case of obviousness under Section 103, all claim limitations of a claimed invention must be taught or suggested by the prior art. See MPEP, Section 2143.03 and *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In view of this authority, the Applicant respectfully submits that the cited references do not support the asserted rejection.

Claims 5, 18, 8-9, 21-22, 31-32, 40-41 and 49-50 are dependent claims and therefore incorporate the features of the independent claims. As demonstrated above, Goetz does not teach or suggest all of the features of the independent claims. Moreover, neither Pocock nor Volk remedies the deficiencies in Goetz. In particular, for example, neither Pocock nor Volk teaches or suggests the features discussed above and demonstrated to be absent from Goetz. That is, neither Pocock nor Volk teaches or suggests analyzing, at a receiver, the quality of received data, and formulating, at the receiver, based on the analysis, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver, as required by claims 1, 14 and 36. Further, the features of: transmitting data to a receiver, and receiving, from the receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted in the earlier step; selecting, based on the received suggestion, an action to alter the future transmitted data; and altering the transmitted data, as required by claims 27 and 46, are absent from Pocock and Volk.

Consequently, the combination of Goetz and Pocock, or Goetz and Volk, cannot render the rejected claims obvious. Accordingly, withdrawal of the rejection of claims 18, 8-9, 21-22, 31-32, 40-41 and 49-50 as unpatentable over Goetz and Pocock, or Goetz and Volk, is respectfully requested.

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees under 37 C.F.R. 1.16 or 1.17 related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: _DECEMBER 10, 2002_ By: _____
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VERSION OF AMENDED CLAIMS MARKED UP TO SHOW CHANGES MADE

27. (Twice amended) A method of transmitting data across a network comprising:

    (a)   transmitting data to a receiver;

    (b)   receiving, from the receiver, a suggestion to alter future transmitted data <u>on the basis of a quality of data transmitted in (a)</u>;

    (c)   selecting, based on the received suggestion, an action to alter the future transmitted data; and

    (d)   altering the future transmitted data.

46, (Twice amended) An apparatus for transmitting data from a sender to a receiver across a network comprising:

    (a)   a processor;

    (b)   a port coupled to said processor; and

    (c)   a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to:

        (i)   transmit data to a receiver;

        (ii)   receive, from the receiver, a suggestion to alter future transmitted data <u>on the basis of a quality of data transmitted in (i)</u>;

        (iii)   select[ing], based on the received suggestion, an action to alter the future transmitted data; and

        (iv)   alter[ing] the future transmitted data.